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JOHN J. COTA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	Case No.: CR 08-0160 SI
	)	
Plaintiff,	)	DEFENDANT'S INITIAL STATUS
	)	CONFERENCE STATEMENT
vs.	)	
	)	
JOHN J. COTA,	)	
	)	
Defendant.	)	
	)	
	)	
	)	

Captain Cota anticipates filing several potentially dispositive motions, including a motion to dismiss the Indictment and a Motion to Change Venue. We anticipate filing at least one dispositive motion to dismiss on or before May 23, 2008 and would suggest setting

1 the matter for hearing on or before June 13, 2008.<sup>1</sup> We believe that the motion to dismiss  
2 should be ruled upon before any other Rule 15 depositions are ordered to be taken because it  
3 could obviate the need to take those depositions.

4 With respect to the Rule 15 depositions that Judge Spero ordered to take place  
5 during the last week of May and the first week of June, we have been advised by the  
6 government that there are still some materials that we have not yet been provided and a great  
7 deal of material we have not yet had the opportunity to review. This includes much of the  
8 material that the NTSB released on April 8 and 9, 2008, additional discovery produced to us  
9 on April 29, 2008, as well as materials that the government has said it will produce this week  
10 and next week. We still do not know what, if any, exhibits the government intends to  
11 introduce or use during the depositions of these witnesses. If we are not given access to this  
12 information to permit sufficient preparation for these depositions, it is likely to  
13 fundamentally undermine the defendant's ability to prepare a full and effective defense.

14 In addition, the government has advised that it intends to use an interpreter during  
15 the depositions. It is our understanding that applicable company policies required that the  
16 crew needed to communicate "effectively" in the English language. See attachment A.

17 With respect to the motion to change venue, we are beginning to compile a cross-  
18 section of the very prejudicial press reports that have inundated Bay Area residents since this  
19 incident. We expect to file that motion, at least based on our initial findings, in early June.

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28 <sup>1</sup> Lead defense counsel is unavailable from June 16-July 2, 2008.

1 To the extent the Court finds that a more in-depth study is required, however, we will need  
2 more time and will likely not be ready to file such a motion until July or August.

3  
4 Respectfully submitted,

5  
6 KIRKPATRICK & LOCKHART  
PRESTON GATES ELLIS LLP  
7

8  
9 Dated: May 8, 2008

By: /S/ JEFFREY L. BORNSTEIN

10 JEFFREY L. BORNSTEIN  
BARRY M. HARTMAN  
Attorneys for JOHN J. COTA  
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ATTACHMENT A



Fleet Management Ltd.

Date : 1 – Jul - 2007

Revision : 1

### **CARGO**

29. If sufficient information or equipment is not available or if the ship is considered to be unsuitable for the safe and proper carriage of the proposed cargo, the Master must refuse to load such a cargo and immediately inform the Head Office.
30. Cargo is at all times to be handled in accordance with any regulations and recommendations laid down in the International Chamber of Shipping and I.M.O. guides.

### **DISCIPLINE**

31. The Master and his Officers are to give a lead to all members of the crew in displaying a sense of responsibility and self-discipline regarding their duties and conduct on board.

### **LOG-BOOKS**

32. The requirements concerning log-books of the Administration controlling the registration of the vessel are to be complied with.

### **NAVIGATION**

33. The instructions and procedures laid down in the Bridge Procedures manual are to be complied with.

### **LANGUAGE**

34. English is the language for all communication regarding Company affairs. All staff on board must be able to communicate effectively in this language.